

of a license by the NRC. The bond therefore does not provide the financial assurance required by CLI 88-10. The staff response to this is that "these actions [such as withdrawal of the application or a period of interim operation at a power level higher than 5 percent] require Commission approval . . ." (Staff Evaluation of PSNH Decommissioning Funding, p. 7.) and therefore the staff argues that upon failure of the Applicants to any longer pursue the license, the Commission has a sufficient authority to deny the license, thereby invoking the protective measures of the bond.

However, it is not clear that such a result would activate the bond. The bond language is very specific, and it is clear that the bonding company did not agree to an "open-ended concept" (see Enclosure 2 to NYN Letter 89045, p. 2) At a minimum, the bonding company should be required to confirm that it would be bound by such an eventuality, and that the limitation of the bond is not such that it is only enforceable in the event that a final NRC decision of denial is made.

- B. The Appeal Board Has Erred In Holding That The Staff Could Appropriately Defer Completion Of The Seabrook Safety Parameter Display System (SPDS) To A Point In Time Prior To Start Up Following The First Refueling Outage, A Time Period Encompassing 12 To 18 Months Of Full Power Operation. (See ALAB 875, 26 NRC 251 Affirming LBP 87-10, 25 NRC At 183-87, 194-205.)

The prompt implementation of the SPDS is described in the relevant regulatory requirement, NUREG-0737, (Supp. 1), a document published in December 1982, as "a design goal and of primary

importance," (p. 9) and that "prompt implementation of an SPDS can provide an important contribution to plant safety." (Id. at 8)

Nevertheless, in reliance on the statement in NUREG-0737, (Supp. 1) that "specific implementation plans and reasonable, achievable schedules for improvements that will satisfy the requirements will be established by agreement between the NRC project manager and each individual licensee . . .," (Id. 5) the Appeal Board held that deferral of this "essential element in operator training programs," (Id. 5) could be deferred until perhaps as long as eight years or more after the requirement was established, and, of safety significance, until long after nuclear operation had been authorized. (SAPL understands that two major nuclear incidents in this country both occurred before the first refueling outage at the reactors in question, TMI Unit 2, and Browns Ferry.)¹

According to the Appeal Board, SAPL had not shown that the SPDS was important to safety because "for the interim, a modified display on the main control board would suffice."²

¹/ SAPL would note that, despite its request, the NRC staff was not required to produce the project managers for Seabrook Station, to explain why such a leisurely implementation schedule was reasonable, and why earlier dates set for completion had not been enforced.

²/ The Appeal Board made this statement in regard to the failure to have a containment isolation display on the SPDS. However, the Appeal Board extended the logic of this proposition to most SPDS deficiencies, claiming for example, that even though a problem with the data validation algorithm could cause the SPDS to provide invalid data, it would "most likely" activate an alarm on the main control board to alert operators to the off-normal situation.

The theory that SPDS requirements can be deferred ignores the NUREG-0737 (Supp. 1) requirement that "operators should be trained to respond to accident conditions both with and without the SPDS available." (Id. 7) The logic of the Appeal Board decision is that the SPDS is not a safety matter of "primary importance" contrary to the language of NUREG-0737 (Supp. 1). If, in fact, the SPDS can be deferred to the first refueling outage, there is no logical reason why it cannot be deferred indefinitely, or eliminated all together. This is plainly inconsistent with the Commission's TMI requirements, as set forth in NUREG-0737 (Supp. 1).

C. In Addition To The Foregoing, SAPL Simply Notes, But Does Not Argue At Length, Its Belief That A Stay Should Be Granted for Failure To Properly Resolve The Following Issues.

(1) The failure to allow litigation of the issues raised in the inspection report noting that the Seabrook plant operators showed "questionable engineering judgment" in several respects at the time of the June 28-29 exercise, a matter now pending before the Appeal Board.

(2) The failure to require the Applicants to demonstrate financial qualification for overall plant operation and safety.

(3) The denial of the intervenors first and second motions for reconsideration of CLI 88-10.

(4) The failure to require a public alert and notification system prior to nuclear operation as a result of the Commission's rule change.

(5) The failure to require full compliance with the Commission's emergency planning requirements prior to nuclear operation.

(6) The failure to require a supplemental environmental impact statement to assess the risks vs. benefits of low power operation, should such operation not be followed by commercial operation.

II. IRREPARABLE HARM.

SAPL will be irreparably harmed by the contamination of the reactor and fuel from low power operation, the creation of a de facto nuclear waste dump at the site, and the tendency of low power operation to foreclose alternative courses of action at the site in the event that emergency planning problems prove to be intractable. (See Bridenbaugh Affidavit, attached to companion intervenor Motion for Stay.)

III. HARM TO OTHER PARTIES.

There will be minimal harm to Applicants. Low power testing generates no saleable power and hence no revenues for Applicants. Applicants have claimed they need only a course of three weeks to undertake low power testing, and have never suggested any facility has needed more than six months to correct problems revealed by

low power testing. Applicants do not claim that they are either three weeks or even six months away from commercial operation.

IV. PUBLIC INTEREST.

The public interest requires all remaining Seabrook issues to be resolved before nuclear operation. Only such a complete resolution furthers the Commission's stated commitment to its ALARA goals and is consistent with the purposes of the National Environmental Policy Act.

Further, SAPL joins in and adopts "Intervenors Motion for a Stay of Low Power Operation Pending Commission or Appellate Review" filed this date by the Commonwealth of Massachusetts, New England Coalition on Nuclear Pollution, and Town of Hampton.

Respectfully submitted,

Seacoast Anti-Pollution League
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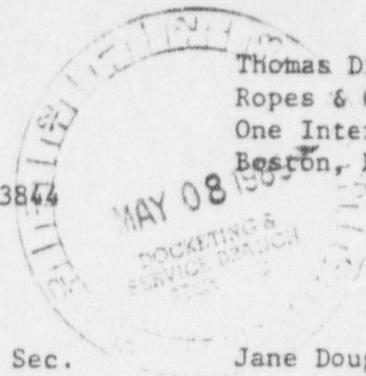
I hereby certify that copies of the within application for stay have been telefaxed to the Commissioners and the Applicants and forwarded by first-class mail, postage prepaid to all other parties on the attached service list.


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